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ORIGINAL

August 16, 2004

VIA ELECTRONIC FILING

RECEIVED

Marlene M. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

AUG 16 2004

Federal Communications Commission
Office of Secretary

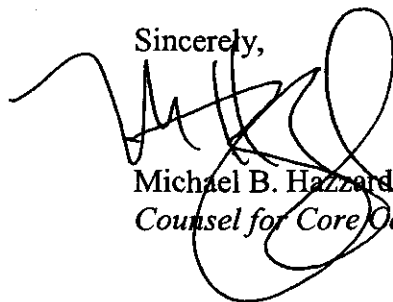
Re: Notice of *Ex Parte* Meeting by Core Communications, Inc.
CC Docket No. 99-68, CPD Docket No. 01-171, and WCB Docket No. 03-171

Dear Ms. Dortch:

Pursuant to section 1.1206 of the Commission's rules, I hereby submit in the above-captioned proceedings this notice of an *ex parte* meeting held on August 13, 2004 between Bret Mingo, Catherine L. Riley, and myself on behalf of Core Communications, Inc. ("Core"), and Chris Libertelli and Aaron Goldberger from the FCC. The attached document served as the basis of discussion. During the meeting Core also discussed its pending waiver petition and forbearance petition, as well as Core's mandamus petition pending at the Court of Appeals for the District of Columbia. All of Core's comments were consistent with Core's advocacy in these proceedings. This notice of *ex parte* is being filed by hand in CPD Docket No. 01-171, as electronic filing is not available in that docket.

If you have any additional questions, please contact the undersigned.

Sincerely,



Michael B. Hazzard
Counsel for Core Communication, Inc.

Attachment

cc: Chris Libertelli (electronic mail)
Aaron Goldberger (electronic mail)

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TAB A

Can the FCC Save Competition?

Monopoly legacies seem to be winning

Presentation of Core Communications, Inc

August 13, 2004

CORE COMMUNICATIONS:

- **Established August 1997**
- **Small, Multi-state**
- **Facilities - based**
- **Earnings plowed back into network development, including VOIP service**
- **Never bought a UNE**

HISTORICALLY, CORE NEEDED:

- **Stable federal policies**
- **Fair compensation, decisions and rules**
- **Timely interconnection**
- **Timely enforcement**
- **Reliable capital infusions**

CORE HAS GOTTEN:

- **Constantly changing policies**
- **Delayed interconnection and lost minutes**
- **Enforcement lag of years**
- **Reduced and/or capped rates for the traffic in which we specialize**
- **Reduced access to capital markets**

CHAIRMAN POWELL BELIEVES:

...In enforcement as stated at the CompTel Annual Meeting in March 2002 -

“When I listened more and more to the industry, I heard a theme that recurred over and over again as the most preeminent challenge --- enforcement. I would challenge CEOs - “What rule do you need that you do not have?” Very rarely did I get a specific answer for a new rule. I got the cry and the plea to enforce the ones more effectively that exist. We took that to heart.”

AND THE FCC HAS TRIED TO DELIVER:

- **FCC's enforcement rhetoric has begun to come to fruition as the FCC has recently recognized and even encouraged a "concurrent" enforcement role for the states.**
- **FCC has clearly staked its claim as an enforcer of interconnection agreements, at least where 251 standards are directly implicated.**
- **Carriers may choose between the FCC and state commissions as a forum for some enforcement disputes.**

CHAIRMAN POWELL BELIEVES IN:

...Facilities-based competition as expressed in June 14, 2004 press release -

“Facilities-based competition brings the innovation and value that consumers demand. These new rules will also encourage increased investment in infrastructure that will continue to drive down prices for individual services.”

Chairman Powell made these comments when indicating his intention to resolve UNE pricing issues with quickly drawn solutions to resolve embedded, fundamental disagreements between RBOCs and CLECS. While a meritorious attempt, this process is unlikely to avoid further court action and uncertainty and prices will rise.

Nor does this effort resolve the financial issues created in June, 2001 with the reciprocal compensation Order on Remand. CLECs are left with little financial certainty or ability to reinvest in infrastructure and innovate. Without additional funds to offset RBOCs' growing advantages, how long can CLECs compete?

DESPITE CHAIRMAN POWELL'S SUPPORT FOR FACILITIES - BASED COMPETITION:

- **FCC intercarrier compensation policies reduce CLECs' ability to generate sufficient revenue to reinvest, particularly harmful to facilities-based CLECs.**
- **Capped reimbursement based on artificial minutes of use particularly harmful to new companies and those with interconnection delays.**
- **FCC's failure to support policies on a nondiscriminatory basis rewards Bells, and they got 271 long distance approval without entrenched competition.**
- **Chairman Powell words differ from his actions which abandon facilities-based competitors. Core and other niche players are at a disadvantage.**
- **And capital markets dried up due to "Enron" and other telecom collapses.**
- **And some RBOCs now are walking out of the Intercarrier Compensation Forum.**

RBOCS APPEAR TO BE WINNING:

- **RBOCs are “stealing the momentum from the cable industry in the fight for broadband customers”. (Nelson, NY Times 7/28/2004)**
- **Verizon launched residential VOIP in July, 2004, and is projected to invest \$1 billion over two years, despite their own concerns about VOIP.**
- **RBOCs are rolling out fiber investments projected at \$3 billion per year.**
- **Wall Street analyst says the Verizon fiber effort will cost \$30 billion over the next 15 years. (Tom Giles, Bloomberg.com, July 28, 2004)**
- **RBOCs “gained the upper hand in their battle with the long-distance carriers.” And “...can expect to gain more customers...as consumers desert the country’s biggest long-distance provider” (Nelson, NY Times 7/28/2004)**
- **Analysts say the recent network court decision may restore Bell monopolies and prices will rise despite “discounts” never proven as being below cost.**
- **Verizon now provides long distance service to 45% of its customer base and SBC reported similar success. Bell South provides long distance to more than a third of its customers. (Voices for Choices Coalition, May 7, 2004)**

- **“The commission (FCC) has granted new, wide sweeping relief to the Bells that denies facilities-based competitors access to the last mile...”. Jason Oxman, Association for Local Telecommunications Services (Reuters, 8/04/2004)**
- **In 1999, Bells controlled 95% of local service and after getting long distance that number remains 85.3% in 2003. (Sunday Business, London, 6/20/2004)**
- **“The Bells added 4.6 million lines in First Quarter of 2004 with operating income at almost \$6 billion on revenues of \$36.2 billion including wireless and DSL“. (Voices for Choices Coalition, May 7, 2004)**
- **Verizon debt reduced \$18.9 billion in two years with a debt to Ebitda ratio of 1.77 compared to Comcast’s 3.89 in March 2004. (Tom Giles, Bloomberg.com, July 28, 2004)**
- **“...the incentives and ability for the incumbents to exercise their tremendous market power remain very real...”(Lawrence J. Spiwak, Phoenix Center “A Little Analytical Honesty Please”, June 15, 2004)**

Bells have already filed for wholesale rate increases in several states despite their promise to Chairman Powell.

WHO WILL BE LEFT TO COMPETE ?

- **Only 3 wires go into houses: telephone, electricity and cable - all historic monopolies. Satellites are increasingly providing telecommunications services, but are more costly and natural gas pipeline use may be possible.**
- **VOIP offers promise for niche facilities-based companies, but they must still rely on someone else's wire. Lots of niche players are needed as are stable entry policies in order to offer real competition to the big guys.**
- **VOIP continues to have quality problems and reliability issues, while shared electrical wires appear to have frequency and static concerns.**
- **FCC OK of Cingular buying AT&T Wireless will give Bells 70% of wireless subscribers nationally and "...the empirical evidence overwhelmingly indicates that so-called "intermodal" competition has no effect on Bell company strategic behavior". (Lawrence J. Spiwak, "A Little Analytical Honesty..."**

Bells will effectively control line, wireless and long distance and are making leaps in cable, and they tend not to compete with each other, just like cable companies' practice.

IN ORDER TO COMPETE CORE CONTINUES TO NEED:

- **Stable federal policies**
- **Fair compensation, decisions and rules**
- **Timely interconnection**
- **Timely enforcement**
- **Reliable capital infusions**

OTHERWISE:

Chairman Powell may well be presiding over the disintegration of telecommunications choice as the once and future monopolies poise to rise like Phoenix from twenty years worth of other companies ashes. Oligopolies and duopolies are little better than the monopoly world of the recent past. Real choice means lots of competitors and lots of prices and offerings. Consumers may be seeing their opportunity for real choices evaporate.